

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 17, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #1689A

PROPOSAL: To expand the area where the sale of alcoholic beverages for consumption on the premises is allowed for Mulligan's Grill and Pub.

CONCLUSION: This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on the premises, and is an appropriate land use at this location.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 2, Lincoln Racquet Club Addition.

LOCATION: 5500 Old Cheney Road

EXISTING ZONING: I-1 Industrial

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Highway 2/Commercial	B-1
South:	Commercial	I-1
East:	Commercial	I-1
West:	Commercial/Industrial	I-1

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates industrial land uses in this area.

HISTORY: June 23, 1997 - Special Permit #1689 was approved allowing the expansion of the area for the consumption of alcohol on the premises to include an outdoor seating area at the west end of the building for Mulligan's Grill and Pub.

BACKGROUND: Special Permit #1689 authorizing the consumption of alcohol within the existing 45' x 25' outdoor seating area was approved in 1997. This request seeks to expand the outdoor seating area to 70' x 25'.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)

27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

The premises is located in the Old Cheney Center, which allows shared parking for the tenants of the center. While the proposed expansion eliminates 2 parking stalls, there are more than 162 in excess of the number required by the Zoning Ordinance. The elimination of two stalls should not have a significant impact upon the center.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).

There is no day care facility, park, church, state mental health institution, or residential district within 100' of this use. The nearest of any of these is the R-1 in excess of 500' away north of Highway 2, and the R-2 in excess of 500' away south of Old Cheney Road.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

Except for parking lot lighting, there are no applicable Design Standards for lighting in the I-1. The parking lot is existing and no additional lighting is shown.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of this application.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

There is no potential for a noise source being located within 150' of a residential district, as noted previously the nearest residential district is in excess of 500' away from the site.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no potential for access doors being located within 150' of a residential district, as noted previously the nearest residential district is in excess of 500' away from the site.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the premises is from Old Cheney Road which is an arterial street and not considered a "residential street" at this location.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

Planning Commission approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department had no objection to this request.

PUBLIC WORKS: Public Works and Utilities had no objection to this request.

HEALTH: The Health Department recommends at least 20% open space relative to the total square footage of all four walls and ceiling area to provide adequate ventilation for the protection of public health.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises as designated on the site plan.

General:

2. Before receiving building permits:

- 2.1 The construction plans comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:

- 3.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
 - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.
4. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Brian Will, AICP, 441-6362, bwill@lincoln.ne.gov
Planner
August 3, 2005

OWNER: Old Cheney Center, LLC
5300 Old Cheney Road
Lincoln, NE 68516

APPLICANT: Mulligan, Inc.
5500 Old Cheney Road
Lincoln, NE 68516
(402) 423-5563

CONTACT: Sheila Herr
7701 San Mateo Lane
Lincoln, NE
(402) 430-6605



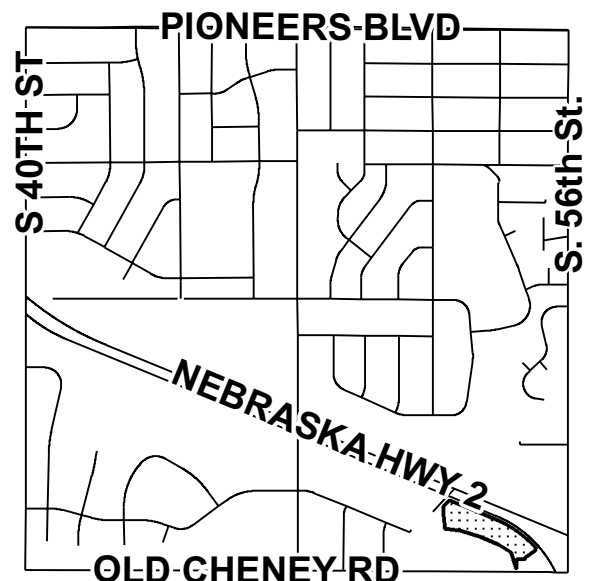
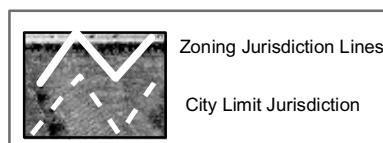
2005 aerial

Special Permit #1689A **S 56th & Old Cheney Rd.** **Mulligans Grill & Pub**

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
 Sec. 8 T9N R7E



OUTDOOR EXPANSION

Mulligans Grill & Pub

5500 Old Cheney Road ~ Lincoln, Nebraska 68516

Lot 2, LINCOLN RAILROAD ADDN

ADDN

15' Easement Setback from R.N. 22
For Future Parking & Drive

Current Outdoor Existing Old Cheney Center
5500 Old Cheney Road

Outdoor Expansion

2 Asphalt Parking 2

Concrete Sidewalk

EXIST. E BEAL SLOUGH

Southern Limits of 100 Yr. Flood Plain

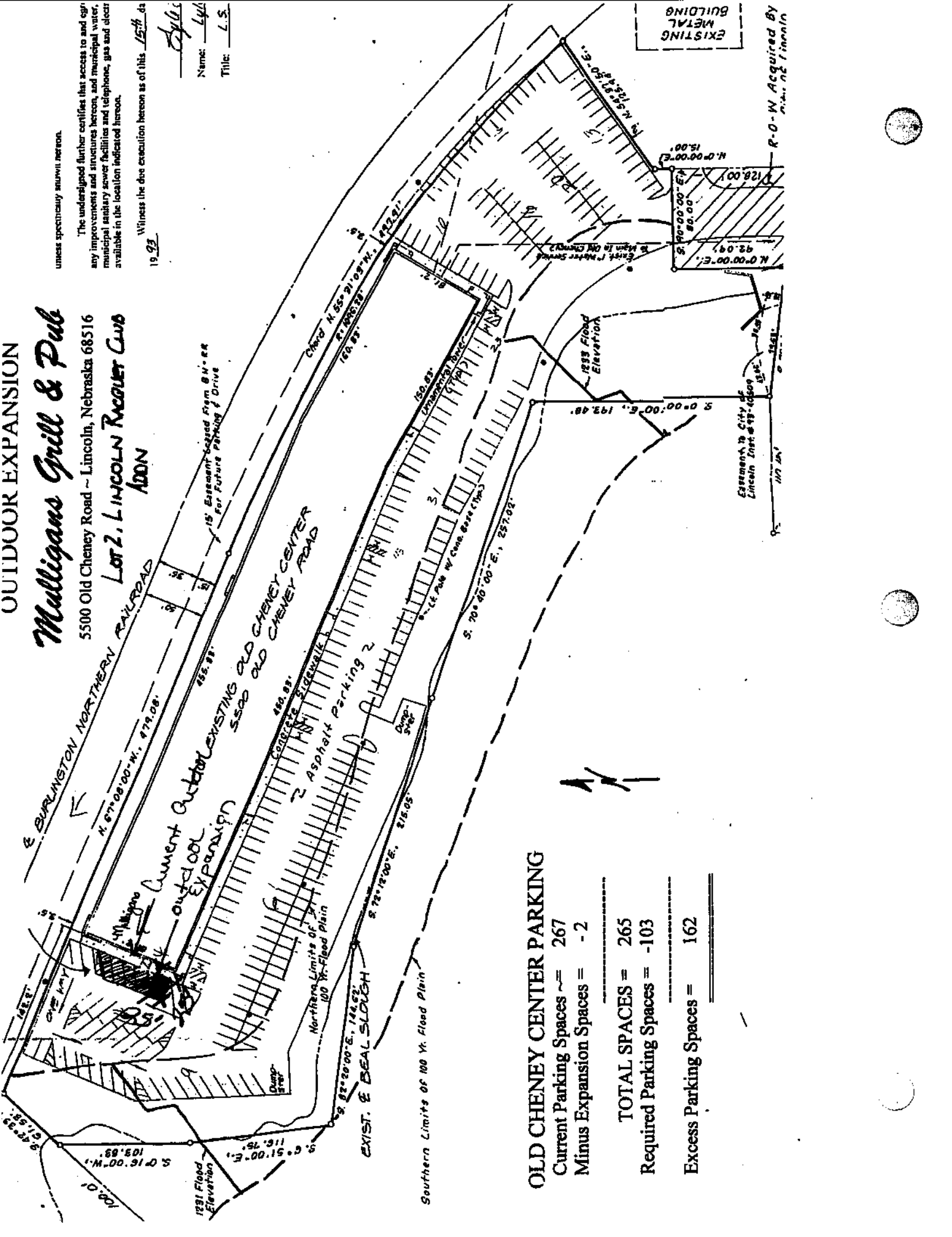
OLD CHENEY CENTER PARKING

Current Parking Spaces ~ 267
Minus Expansion Spaces = - 2

TOTAL SPACES = 265

Required Parking Spaces = - 103

Excess Parking Spaces = 162



UNLESS SPECIFICALLY SET FORTH HEREON.

The undersigned further certifies that access to and egress, any improvements and structures herein, and municipal water, municipal sanitary sewer facilities and telephone, gas and electric available in the location indicated herein.

Witness the due execution hereon as of this 15th day of 1993.

Cyle
Name: *Lyle*
Title: *L.S.*

EXISTING
BUILDING
METAL

R-O-W Acquired By
City of Lincoln

MULLIGANS

PROPOSED BEER GARDEN

SCALE: 1/8" = 1'-0"

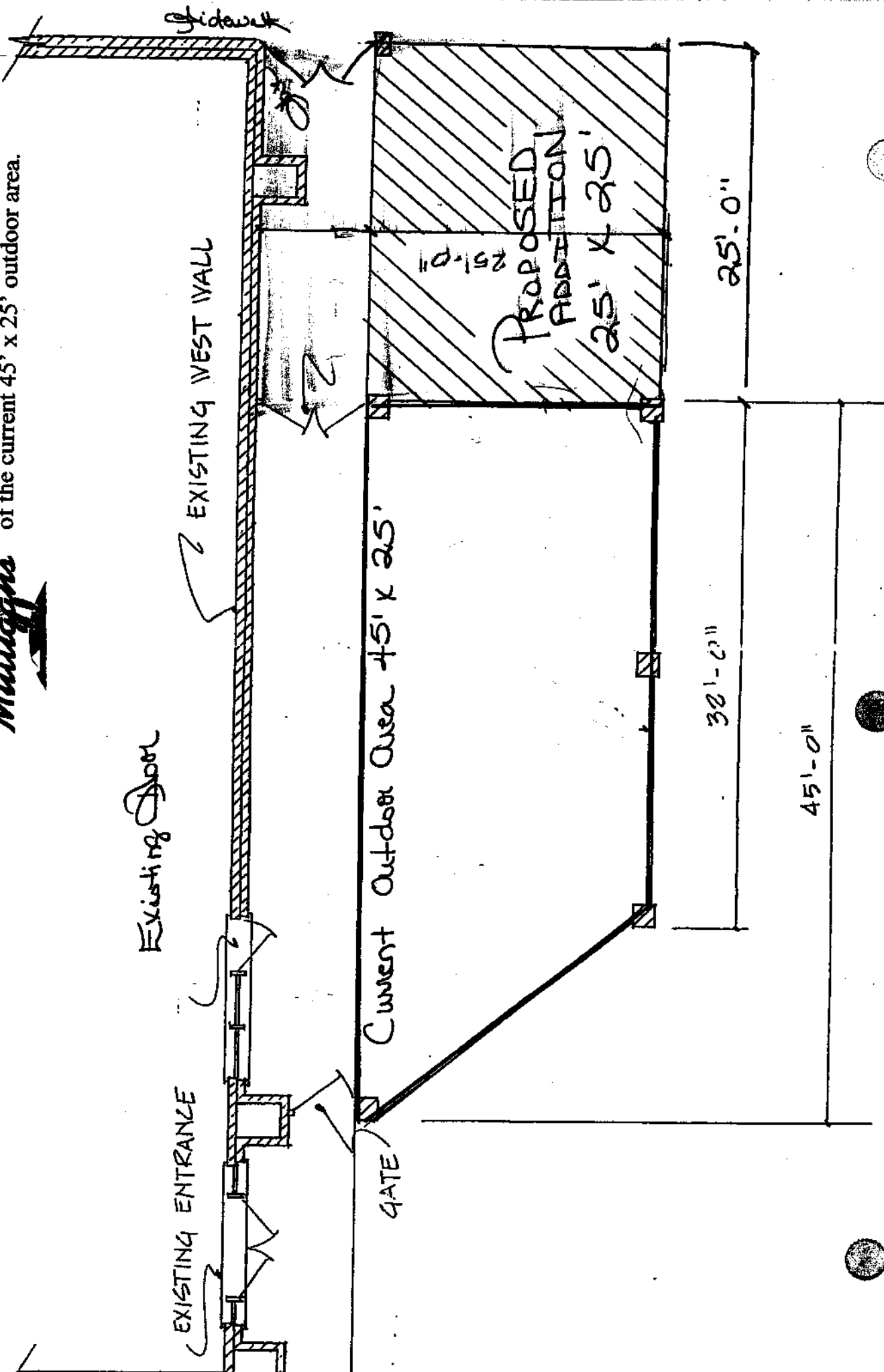


NORTH



Mulligans

Mulligans would like to add a 25' x 25' addition (noted in) to the south side of the current 45' x 25' outdoor area.



Mulligans Grill & Pub

5500 Old Cheney Road ~ Lincoln, Nebraska 68516

July 11, 2005

Planning Department
City of Lincoln
555 South 10th Street ~ Suite 213
Lincoln, NE 68508

Dear Planning Department:

Mulligans, Inc. has submitted an application for an addition to the existing licensed outdoor area. The addition would be attached to the south side of the existing outdoor area located on the west side of Mulligans Grill & Pub at 5500 Old Cheney Road.

There would be more than ample parking spaces to accommodate the loss of 2 parking spaces for the addition. Currently, there are 267 parking spaces. After the loss of 2 parking spaces ~ there would be 265. The total of 265 spaces would be 162 excess parking spaces over the required 103 spaces.

The proposed dimensions for the outdoor addition would be within a 25'x 25' area added to the existing 45'x 25' outdoor area. The outdoor area would be enclosed by a six foot high fence. The floor would be a deck floor with treated two by six lumber built up to the level of the sidewalk (approximately 5 1/4 inches). At both the north and south end of the outdoor area would be emergency exit gates.

Thank you for your consideration regarding the outdoor addition. Please, feel free to contact me with any questions or for additional information at 402-430-6605.

Sincerely,



Sheila R. Herr
Owner/Mulligans, Inc.

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Brian Will	DATE: July 21, 2005
DEPARTMENT: Planning	FROM: Chris Schroeder
ATTENTION:	DEPARTMENT: Health
CARBONS TO: EH File EH Administration	SUBJECT: Mulligans Grill & Pub SP #1689A

The Lincoln-Lancaster County Health Department has reviewed the special permit application with the following noted:

- If smoking will be allowed in the proposed outdoor area expansion, the LLCHD recommends at least 20 percent open space relative to the total square footage of all four walls and ceiling area to provide adequate ventilation for the protection of public health.